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OFFICE OF PETITIONS

October 23, 2006

Ref : Application no. 10/725,226 filing date: 12/01/2003 Art Unit no. 3683  
Title: Back driving automatic brake system & Automatic braking system for equipping in all vehicles, airplanes, ships, etc.

Attn: Mr. Cliff Congo; Attorney  
Office of Petitions  
Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Mr. Cliff Congo,

In reply to your letter of October 16, 2006, I am referring to "Advisory Action before the filing of an Appeal Brief" was mailed on February 14, 2006 (its copies enclosed) that applicant must timely filed one of the following replies:

1. an amendment, affidavit, or other evidence, which places the application in condition for allowance,
2. a Notice of Appeal (with appeal fee) in compliance with 37CR41.31, or
3. a Request for Continued Examination (RCE) in compliance with 37CR1.114.

"Affidavit" belongs one of the documents that your office action required to be filed so applicant filed with an "affidavit" being timely sent on February 17, 2006.

I refer to General Information Concerning "Patent Regulations" published by United States Patent & Trademark Office (see its copy) that Time for Response and Abandonment: "If no reply is received within the time period, the application is considered as abandoned and no longer pending". In the case, the applicant made his reply timely on February 17, 2006 so it makes no reason why the application was considered as abandoned.

In reply to your Notice of Abandonment of August 07, 2006, the applicant filed an amendment of August 29, 2006 reaching your office on September 01, 2006 that new subject matter was removed in the claims as requested by the examiner, which places the application in condition for allowance.

Furthermore, delaying approval of the patent application will cause:


1. American lives are losing daily caused by traffic accidents, humanity value of the invention will do to save them.

2. the invention concerns everybody who drives including your office employees who should protect themselves lawfully as the invention makes to avert from any unexpected traffic accidents.
3. delaying to benefit in priority a merit progress for the United States among other nations.
4. delaying to benefit American interests on job employment as execution of the invention will create immense jobs.
5. delaying to benefit (period elapsed represents a loss) American interests on export business lessening foreign debts of the United States as marketing of American new cars with automatic braking device will do to augment for export.

Since the inventor(s) has made an invention earning important profits for a country without reward, it is unfair for him to afford any extra (late) fee, etc as a sort of penalty on which the laws apply. On the other hand, the laws make profits on his invention at the later stage by collecting taxes on inventive products from production line to any market places.

The applicant hereby requests that United States Patent & Trademark Office withdraws the holding of abandonment of the application for no fee.

Respectfully,

  
Henri Duong

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Enc: copies of Advisory Action before the filing of an Appeal Brief  
General Information Concerning "Time for Response and Abandonment"



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,226	12/01/2003	Henri Duong		2109

7590 02/14/2006  
HENRI DUONG  
316 1/2 E. GLENDON WAY  
ALHAMBRA, CA 91801



EXAMINER

SICONOLFI, ROBERT

ART UNIT PAPER NUMBER

3683

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/725,226

Examiner

Robert A. Siconolfi

Applicant(s)

DUONG, HENRI

Art Unit

3683

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OFFICE OF PETITIONS

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

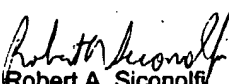
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
Robert A. Siconolfi  
Primary Examiner  
Art Unit: 3683

## TIME FOR REPLY AND ABANDONMENT

The reply of an applicant to an action by the Office must be made within a prescribed time limit. The maximum period for reply is set at six months by the statute which also provides that the Director may shorten the time for reply to not less than 30 days. The usual period for reply to an Office action is three months. A shortened time for reply may be extended up to the maximum six-month period. An extension of time fee is normally required to be paid if the reply period is extended. The amount of the fee is dependent upon the length of the extension. Extensions of time are generally not available after an application has been allowed. If no reply is received within the time period, the application is considered as abandoned and no longer pending. However, if it can be shown that the failure to prosecute was unavoidable or unintentional, the application may be revived by the Director. The revival requires a petition to the Director, and a fee for the petition, which must be filed without delay. The proper reply must also accompany the petition if it has not yet been filed.

## APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES AND TO THE COURTS

If the examiner persists in the rejection of any of the claims in an application, or if the rejection has been made final, the applicant may appeal to the Board of Patent Appeals and Interferences in the United States Patent and Trademark Office. The Board of Patent Appeals and Interferences consists of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO, the Commissioner for Patents, and the administrative patent judges, but normally each appeal is heard by only three members. An appeal fee is required and the applicant must file a brief to support his/her position. An oral hearing will be held if requested upon payment of the specified fee.

As an alternative to appeal, in situations where an applicant desires consideration of different claims or further evidence, a request for continued examination (RCE) or continuation application is often filed. The RCE requires a fee and a submission (reply) that continues prosecution, on filing of the RCE. The continuation application is a new application which requires a filing fee and the applicant should include the claims and evidence for which further consideration is desired. If it is filed before expiration of the period for appeal and specific reference is made therein to the earlier application, applicant will be entitled to the earlier filing date for subject matter common to both applications. A continuation application may also be filed as a Continued Prosecution Application (CPA) by submitting a request and the appropriate fee, but only if the earlier application has a filing date before May 29, 2000.

If the decision of the Board of Patent Appeals and Interferences is still adverse to the applicant, an appeal may be taken to the Court of Appeals for the Federal Circuit or a civil action may be filed against the Director in the United States District Court for the District of Columbia. The Court of Appeals for the Federal Circuit will review the record made in the Office and may affirm or reverse the Office's action. In a civil action, the applicant may present testimony in the court, and the court will make a decision.

## INTERFERENCES

Occasionally two or more applications are filed by different inventors claiming substantially the same patentable invention. The patent can only be granted to one of them, and a proceeding known as an "interference" is instituted by the Office to determine who is the first inventor and entitled to the patent. About one percent of the applications filed become involved in an interference proceeding. Interference proceedings may also be instituted between an application and a patent already issued, provided that the patent has not been issued, nor the application been published, for more than one year prior to the filing of the conflicting application, and provided also that the conflicting application is not barred from being patentable for some other reason.